

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 365

(Senator Giannetti, *et al.*)

Judicial Proceedings

Judiciary

Criminal Law - Animal Cruelty - Dogfighting and Cockfighting

This bill provides that a person who knowingly attends, as a spectator, a deliberately conducted event that uses a fowl, cock, or other bird to fight with another fowl, cock, or bird is guilty of a misdemeanor. A person who possesses a specified implement with the intent to unlawfully use the implement, arranges a cockfight, or allows premises under his or her control to be used for dogfighting or cockfighting is guilty of a felony. A person who possesses, owns, sells, transports, or trains a dog or bird with the intent to use the animal in a dogfight or cockfight is guilty of a felony.

Fiscal Summary

State Effect: General fund revenues and expenditures could increase minimally due to the bill's penalty provisions.

Local Effect: Revenues could increase minimally due to the bill's monetary penalty provisions for cases heard in the circuit courts. Expenditures could increase minimally due to the bill's imprisonment provisions.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that a person may not knowingly attend, as a spectator, a deliberately conducted event with fowl, cock, or other bird fighting. A person who violates the provision is guilty of a misdemeanor and is subject to imprisonment for up to 90 days or a maximum fine of \$1,000, or both. As a condition of sentencing, the court may order a violator to participate in and pay for psychological counseling.

The bill provides that a person may not possess, own, sell, transport, or train a dog with the intent to use the dog in a dogfight or knowingly allow premises under his or her control to be used for dogfighting. A person who violates these provisions is guilty of a felony and is subject to up to three years imprisonment or a maximum fine of \$5,000, or both.

The bill also provides that a person may not possess, with an intent to unlawfully use, an implement of cockfighting or any tool designed to enhance a bird's fighting ability for use in a deliberate bird fighting event. These implements include gaffs, slashers, postizas, sparring muffs, or any other sharp tool intended to replace the natural spur of a gamecock or other fighting bird. A person may not arrange or conduct an event where a fowl, cock, or other bird fights with another fowl, cock, or other bird. A person may not possess, own, sell, transport, or train a bird with the intent to use the fowl, cock, or other bird in a cockfight, or knowingly allow premises under the person's control to be used for a fowl, cock, or other bird to fight with another fowl, cock, or other bird. A person who violates these provisions is guilty of a felony and may receive up to three years imprisonment, a maximum fine of \$5,000, or both. The court may order the violator to undergo and pay for psychological counseling.

Current Law: A person is prohibited from knowingly attending a deliberately conducted dogfight as a spectator. A violator is guilty of a misdemeanor and may receive up to 90 days imprisonment or a maximum fine of \$1,000, or both.

A person may not use or allow a dog to be used in a dogfight or arrange or conduct a dogfight. A person who violates the provisions is guilty of a felony and is subject to imprisonment for up to three years or a maximum fine of \$5,000, or both.

A person may not use or allow the use of a fowl, cock, or other bird to fight with another animal. A violator is guilty of a felony and subject to a maximum fine of \$5,000, a maximum term of imprisonment of three years, or both.

A court may order a defendant convicted of one of these animal cruelty offenses to undergo and pay for psychological counseling.

Background: According to the Humane Society of the United States (HSUS), dogfighting is illegal in all 50 states and the District of Columbia. In 47 states and the District of Columbia it is a felony offense. In 39 states and the District of Columbia, possession of dogs for the purpose of fighting is a felony. In five states, including Maryland, possession of dogs for the purpose of fighting is legal. In 20 states being a spectator at a dogfight is a felony. In the District of Columbia and 28 states, including Maryland, being a spectator at a dogfight is a misdemeanor.

Cockfighting is illegal in 48 states and the District of Columbia, according to HSUS. In the District of Columbia and 30 states, including Maryland, cockfighting is a felony offense. In 18 other states, cockfighting is a misdemeanor. The two states where cockfighting is still legal are Louisiana and New Mexico.

In 30 states and the District of Columbia, the possession of birds for fighting is illegal. In 20 states, including Maryland, possession of birds for fighting is legal. In 40 states and the District of Columbia, being a spectator at a cockfight is illegal. In 29 states, being a spectator is a misdemeanor, while in 11 states, being a spectator is a felony. In 10 states, including Maryland, being a spectator at a cockfight is legal. In 42 states, including Maryland, and in the District of Columbia, possession of implements for bird fighting is legal. In three states, (Colorado, Florida, and Michigan) possession of bird fighting implements is a felony, while in five states (California, Illinois, Indiana, Missouri, and Oregon) the possession of these implements is considered a misdemeanor.

State Revenues: General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of these proposed crimes is expected to be minimal. DOC advises that in 2002 there were only two intakes for animal cruelty.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detention.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: As introduced, this bill is a reintroduction of HB 624 from the 2003 session. HB 624 was passed by the House and Senate, but was not acted on by a conference committee. A similar bill, HB 510 was introduced in the 2002 session. HB 510 was referred to the Judiciary Committee, where it received an unfavorable report.

Cross File: HB 24 (Delegate Boutin) – Judiciary.

Information Source(s): Department of Public Safety and Correctional Services, Humane Society of the United States, Department of Legislative Services

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